



House of Representatives

File No. 623

General Assembly

February Session, 2000

(Reprint of File No. 449)

Substitute House Bill No. 5903
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
April 14, 2000

***An Act Concerning The Statute Of Limitations For Prosecution
Of Sexual Assault And For Requesting A New Trial.***

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. (NEW) Notwithstanding the provisions of sections 54-193
2 and 54-193a of the general statutes, a person may be prosecuted for a
3 violation of section 53a-70, 53a-70a, 53a-70b, 53a-71, 53a-72a or 53a-72b
4 of the general statutes not later than twenty years from the date of the
5 commission of the offense, provided (1) the victim notified any police
6 officer or state's attorney acting in such police officer's or state's
7 attorney's official capacity of the commission of the offense not later
8 than five years after the commission of the offense, and (2) the identity
9 of the person who allegedly committed the offense has been
10 established through a DNA (deoxyribonucleic acid) profile comparison
11 using evidence collected at the time of the commission of the offense.

12 Sec. 2. Section 52-582 of the general statutes is repealed and the
13 following is substituted in lieu thereof:

14 No petition for a new trial in any civil or criminal proceeding shall

15 be brought but within three years next after the rendition of the
16 judgment or decree complained of, except that a petition based on
17 DNA (deoxyribonucleic acid) evidence that was not discoverable or
18 available at the time of the original trial may be brought at any time
19 after the discovery or availability of such new evidence.

20 Sec. 3. This act shall take effect from its passage and shall be
21 applicable to any offense committed prior to, on or after said date.

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: See Explanation Below
Affected Agencies: Various Criminal Justice Agencies
Municipal Impact: None

Explanation**State Impact:**

This bill could result in a cost to the criminal justice system. The bill changes the statute of limitations for prosecution of various sexual assault offenses in the first, second or third degrees to within twenty years of the date that the offense was committed, provided that the victim reported the offense to any police officer or state's attorney and the identity of the perpetrator has been established through a DNA comparison. The extent to which new cases would be prosecuted is unknown.

It is anticipated that additional cases can be absorbed within the current budgetary and caseload structures of the criminal justice system. However, the Department of Correction (DOC) has an inmate population of about 17,500. This is more than 500 inmates above the department's projection for FY 00. The department estimates that the population will increase to about 18,500 inmates by the end of FY 01. This growth is primarily attributed to mandatory sentences and truth in sentencing requirements. To accommodate this, the Governor's FY 01 proposed budget adjustments include \$8.4 million for expansion of

in-state prison beds and \$11.9 million to annualize funding for inmates being housed out-of-state. Although it is not anticipated that the bill would result in a significant increase in the correctional inmate population, it should be noted that the strengthening and expansion of criminal laws will eventually result in the need for additional criminal justice resources.

The bill could result in a cost to the criminal justice system related to additional new trials based on deoxyribonucleic acid (DNA) evidence. The extent to which this may occur is unknown. It should be noted that to the extent that individuals are removed from the correctional system based on the outcome of these trials, savings to the Department of Correction would result.

In 1999, according to Judicial Department reports, there were 967 sexual assault offenses (these figures include various sexual assault offenses in the first, second or third degrees). According to the Department of Correction reports, there were 799 people incarcerated with sexual assault in the first, second or third degree as their primary offense in 1999. No revenue was collected in criminal fines for these types of offenses during this time frame. Therefore, it is not anticipated that changing the statute of limitations in sexual assault cases will result in a revenue gain from additional criminal fines.

House Amendment "A" added the cost and potential savings related to additional new trials based on DNA evidence.

OLR Amended Bill Analysis

sHB 5903 (as amended by House A)*

AN ACT CONCERNING THE STATUTE OF LIMITATIONS FOR PROSECUTION OF SEXUAL ASSAULT.**SUMMARY:**

This bill increases the statute of limitations for six serious sexual assault crimes and increases the time someone has to request a new trial when DNA evidence is available.

It increases the time period within which a person may be charged with the six most serious sexual assault crimes, in most cases by 15 years, when the perpetrator is identified by DNA analysis and provided that the victim notified the police or a prosecutor of the offense within five years of its commission. This provision applies to first-degree sexual assault, aggravated first-degree sexual assault, sexual assault in a spousal or cohabiting relationship, second-degree sexual assault, and third-degree sexual assault, with and without a firearm.

The bill removes a three-year limit on how long a person has to request a new trial in a civil or criminal matter when the request is based on DNA evidence. It allows such a request anytime if it is based on evidence that was not discoverable or available at the time of the original trial.

*House Amendment "A" adds the provision relating to requesting a new trial.

EFFECTIVE DATE: Upon passage and applicable to offenses committed anytime, including prior to its passage.

STATUTE OF LIMITATIONS FOR SEXUAL ASSAULT CRIMES***Current Law***

Under current law, the general rule is that all felonies (except for death

penalty cases, class A felonies, and arson murder) must be prosecuted within five years of the date of the offense. This time period is tolled for any time that the accused has fled and resides outside the state. Special rules exist for offenses involving the sexual abuse, exploitation, or assault of a minor. Such prosecutions must be brought within (1) two years of the victim attaining the age of majority or (2) five years of the victim reporting the offense to the police or a prosecutor, whichever is earlier, but the time period cannot be less than five years. Thus, depending on the facts, the period of time could be significantly more than five years. For example, if a very young child was sexually assaulted but the assault was not discovered and reported to police until the child was a teenager, a prosecution could still be brought up to five years after the report.

Statute of Limitations Under the Bill

The bill allows a prosecution for any of the six specific offenses to be brought up to 20 years after the offense provided:

1. the victim notified the police or a prosecutor within five years of the offense's occurrence and
2. the offender's identity is established through the use of a DNA profile comparison using evidence collected at the time of the offense.

Offenses Covered

The six offenses covered by this provision of the bill are:

1. first-degree sexual assault (a class B felony), which involves having sexual intercourse by force or threat of force or with a victim under age 13, or committing second-degree sexual assault with the help of other people;
2. aggravated first-degree sexual assault (a class B felony), which involves someone committing first-degree sexual assault and (a) being armed with a deadly weapon, (b) disfiguring or injuring the victim, (c) creating a risk of death and injuring the victim, or (d) using the assistance of others;
3. sexual assault in a spousal or cohabiting relationship (a class B

felony), which involves compelling a spouse or cohabitor to have sexual intercourse by force or threat of force;

4. second-degree sexual assault (a class C felony), which involves having sexual intercourse with victims who are underage or physically or mentally cannot give meaningful consent, or when the offender is in a position of power or authority over the victim;
5. third-degree sexual assault (a class D felony), which involves having sexual contact by force or threat of force or having sexual intercourse with a relative (incest); and
6. third-degree sexual assault with a firearm (a class D felony), which consists of using or threatening to use a firearm while committing third-degree sexual assault.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 40 Nay 0